

**BOARD TRANSMITTAL  
MEMORANDUM  
PLACER COUNTY  
PLANNING DEPARTMENT**

**TO:** BOARD OF SUPERVISORS  
**FROM:** PLANNING DEPARTMENT *See*  
**SUBJECT:** PLACER COUNTY NATURAL COMMUNITIES CONSERVATION PLAN  
AND HABITAT CONSERVATION PLAN - UPDATE  
**DATE:** September 10, 2004

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**SUMMARY/ACTION REQUESTED:** The Planning Department is providing the Board with a status report on the preparation of a Natural Communities Conservation Plan, Habitat Conservation Plan (NCCP/HCP) and related regulatory compliance planning and implementation efforts. The NCCP/HCP, now referred to as the Placer County Conservation Plan (PCCP) is being prepared at the Board of Supervisors direction as the first of a 3-phase effort to address local, state, and federal special status and endangered species. This will result in a unified regulatory program managed by the County. This is a follow-up to an update that was provided to the Board in May of 2004.

**BACKGROUND:** In June 2000, the Board directed the staff to initiate the implementation of the Placer Legacy Program. One of the objectives of the program was to prepare a Natural Communities Conservation Plan and Habitat Conservation Plan. The staff has been working on this effort with various stakeholder working groups since October of 2001 and has now moved into the preparation of the actual draft conservation plan.

**FISCAL IMPACT:** There are a number of fiscal impacts associated with the completion of this effort including:

- Administrative costs related to implementing the PCCP
- Monitoring and management costs
- Potential loss of property tax revenues on lands permanently protected
- Potential revenue increases associated with a comprehensive solution to mitigation requirements for impacts to endangered species and a more certain and predictable environment for new development

**RECOMMENDATIONS:** This information is presented for discussion purposes only as another in a series of Board workshops to provide information to the Board of Supervisors and the public on this important and far-ranging project. There are no recommendations for specific action at this time.

**MEMORANDUM  
PLACER COUNTY  
PLANNING DEPARTMENT**

**TO: BOARD OF SUPERVISORS**

**FROM: Loren E. Clark, Assistant Director of Planning**

**SUBJECT: PLACER COUNTY NATURAL COMMUNITIES CONSERVATION PLAN  
AND HABITAT CONSERVATION PLAN - UPDATE**

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**SUMMARY:**

The Planning Department is providing the Board with a status report on the preparation of a Natural Communities Conservation Plan, Habitat Conservation Plan (NCCP/HCP) and related regulatory compliance planning and implementation issues. The NCCP/HCP and its related permits, now referred to as the Placer County Conservation Plan (PCCP), is being prepared as the first of a 3-phase effort to obtain regulatory compliance for state and federally listed endangered species.

**Purpose of this Memorandum**

This program is entering into final planning and development for Phase 1 (western county area), leading towards final policy and program decisions and implementation. This is a second update for the Board within the past 6 months in order to insure that the Board is fully aware of the scope of the program and the County's future obligations. The overall objective of this memorandum is to provide the Board with an update on the PCCP work program and:

- Discuss the remaining timeline and next steps.
- Describe challenges that could affect program completion.
- Provide the Board with an update on potential participating agencies.
- Describe to the Board the most current impact assessment scenarios resulting from a change in the Conservation and Development Opportunities map previously described to the Board of Supervisors in May 2004.
- Provide the Board with an updated and more accurate summary of costs to develop and implement the program based upon the new impact scenarios.
- Discuss the management obligations of the County and other participating agencies resulting from implementation of the PCCP.
- Provide the Board with background information on two important elements of the federal Endangered Species Act: 1) the "No Surprises" policy and 2) Safe Harbor Agreements.

**BACKGROUND:**

In 1998, the Board directed the Planning Department to initiate the preparation of the Placer Legacy Open Space and Agricultural Conservation Program. In June of 2000, the Board directed County staff to begin implementation of the Placer Legacy program that included the preparation of the Phase 1 PCCP (NCCP/HCP).

In December of 2001, Placer County, the U.S. Fish and Wildlife Service (FWS), the National Oceanic Atmospheric Administration Fisheries (NOAA Fisheries) and the California Department of Fish and Game (DFG) signed a document known as a NCCP Planning Agreement. The Planning Agreement provides the collaborative setting for the key agencies involved in the preparation of the NCCP/HCP. In October of 2003, the Board was presented with a Conservation Strategy Overview document that outlined the guiding principles of the NCCP/HCP, the key resources to be protected and some of the challenges associated with completing the NCCP/HCP in the ever-changing landscape of western Placer County. In May 2004, the Board held a workshop on the PCCP and discussed the status, key points, and alternatives being considered, as well as the assumptions to be used to develop the draft conservation plan. At that time the Board directed that staff report back with additional information on the program costs, habitat acreage needs, and progress.

**TIMELINE**

The preparation of the NCCP/HCP for the Phase 1 area is in the last phases of program development. Even though there is a significant amount of work to be completed, all of the essential elements of the work program are in place. The following is a summary of the timeline to date and a summary of the remaining tasks.

1. The final biological resources reports and data collection were completed in July.
2. The first administrative draft conservation plan was prepared in July and has gone through its first internal review.
3. The public review document is anticipated to be released in mid to late September.
4. The administrative draft financial alternatives analysis is anticipated in October. The initial findings of the anticipated report are summarized in this memorandum.
5. The biological resources stakeholder-working group will begin a series of deliberations on the conservation plan and its key elements starting in October and concluding sometime during the fall.
6. The Draft EIR/EIS is expected to be circulated in spring/summer 2005.

Attachment A contains a brief summary of the major anticipated events that are expected to occur over the next 6 months.

**CHALLENGES**

There are a number of challenges that still face the team working on the completion of the PCCP. It is appropriate to identify these challenges at this stage of the process in order that everyone understands what needs to be accomplished and what we need to overcome to get these tasks completed. These challenges include:

- Development of a PCCP and finance plan that is feasible, affordable and most importantly, that meets the mitigation obligations of the County and the participating agencies. As we approach discussion on implementation, the negotiations for mitigation obligation, the consideration of funding alternatives, and the County and participating agencies program responsibilities will require high levels of policy and program coordination and education.
- Secure funding to complete plan preparation beyond the current fiscal year.
- Coordinate between participating agencies to insure that all needs and expectations are met.
- Provide suitable mitigation for all covered species especially those species associated with vernal pool habitat.
- Develop a conservation plan and financial implementation plan that meets a divergent and complex range of stakeholder interests.
- Complete the plan in a timely manner in order to address the direct and cumulative growth impacts associated with potential future urban expansions.

### **CONSERVATION AND DEVELOPMENT OPPORTUNITY AREAS**

In previous updates to the Board, the staff has provided a number of figures that depicted a range of alternatives that examined where development was expected and where conservation opportunities were anticipated through the year 2050 - the term of the PCCP permitting. "Conservation and Development Opportunity Map - Alternative 5" (Attachment A) was described to the Board as the map being used in the draft conservation plan. This figure incorporated a number of potential projects into the development opportunity area including Placer Ranch, De LaSalle, the Curry Creek Community Plan proposed boundary and an increment of growth associated with the City of Lincoln near the S.R. 65 bypass. The figure also depicted conservation opportunity areas, including the western-most portion of the Placer Vineyards Specific Plan area. Generally, urban uses are not appropriate within conservation opportunity areas; however, there will be provisions in the conservation plan to permit development to occur within these lands. Conversely, while development opportunity areas are more suited for urban uses, land within these boundaries may contain significant natural resources worthy of conservation. In order to recognize this, the impact analysis and cost analysis has assumed that a certain percentage of the important resources in development areas are to be protected (30%) and a small percentage of the conservation areas will develop. The more avoidance that occurs in development opportunity area, the lower the cost of the PCCP. While at the same time it is important to acknowledge that even areas set aside for conservation and ongoing agricultural activities will have some amount of development occurring.

Since this map was first prepared, project discussions and negotiations have continued and the City of Lincoln's General Plan update process has advanced to the point that modifications of the boundaries are worth considering. Attachment B contains a proposed "Conservation and Development Opportunity Map - Alternative 6" that represents the current status of the proposed Placer Vineyards, De LaSalle, and Placer Ranch Specific Plans, the Curry Creek Community Plan boundary, and the potentially urbanizing areas of the City of Lincoln's General Plan update.



It is possible that the figure would see additional modifications at such time that project boundaries change, project proposals change areas of avoidance or areas of development area identified, or the PCCP mitigation and conservation requirements result in changes. If additional changes to this figure are warranted, such modifications will be brought to the Board's attention.

#### **PARTICIPATING AGENCIES**

The County's NCCP Planning Agreement allows agencies to join Placer County for the regulatory coverage associated with the PCCP. By extending coverage to these agencies, we also extend the benefits associated with the PCCP and have partners who will share in the obligations that go with the PCCP. To date, four agencies have expressed some degree of interest in participating in the program. We have received correspondence from each of these agencies expressing their interest (See Attachments C, D, E and F):

- The South Placer Transportation Planning Authority – This agency seeks regulatory coverage for the Placer Parkway Project.
- Placer County Water Agency – The water agency has expressed interest in coverage for a wide range of activities associated with their operations and maintenance.
- Placer County Resource Conservation District (RCD) – The RCD has sought coverage for RCD conservation activities.
- City of Lincoln – The city seeks coverage for the anticipated growth associated with the updated Lincoln General Plan that could be a significant comprehensive coverage similar to that sought by the county.

At this time, these agencies have expressed their interest and are participating in the process of developing the PCCP. Like Placer County, they are not committed to implement the PCCP until such time that they decide to sign the implementing agreement. This opportunity should arise some time next year.

#### **PCCP MITIGATION REQUIREMENTS**

In order to achieve its objectives the PCCP must mitigate the anticipated impacts resulting from all covered activities that are listed by all participating agencies. The covered activities are those activities spelled out by the participating agencies and must be specifically addressed by the PCCP.

#### **Projected "Take"**

The impact on endangered species is referred to as "take". The permits issued for the take of endangered species is called an incidental take permit. In order to determine the mitigation required for the 33 species covered by the PCCP, it is necessary to determine how much take is expected by activities that are in some way caused or regulated by the participating agencies. The take of the species or the habitat for the species was determined by analyzing growth projections and land conversion estimates for the 2002 to 2050 time period prepared for the County by Hausrath Economics Group (HEG). To develop a long-term growth scenario for Placer County, HEG analyzed a number of different sources, including California Department of Finance historical population and housing data and county-level population projections through the year 2050; Census data; U. S. Department of Commerce

Bureau of Economic Analysis employment data; Sacramento region jobs, population, and household growth trends and projections through 2050 prepared by the Center for the Continuing Study of the California Economy for the Sacramento Area Council of Governments (SACOG) Blueprint Project; and SACOG 2001 projections series and more recent scenarios for regional growth prepared for the Blueprint project. HEG developed estimates of land conversion through the year 2050 based on analysis of existing adopted General Plans of Placer County and the cities in the county, the proposed Lincoln General Plan Update, and other anticipated growth areas that the Board directed staff to evaluate this fall. (The analysis also accounted for growth in the cities of Auburn, Loomis, Rocklin, and Roseville that are not participants in the proposed PCCP, as well as the direct land conversion associated with the proposed Placer Parkway project.) Analysis of the land conversion scenario in conjunction with the existing base line land cover conditions for the Phase 1 area that were completed and documented last year resulted in estimates of the take of habitat as a consequence of new development to accommodate population and employment growth in this part of Placer County. The net result of this analysis is that we have a reasonable scenario of how growth will cause habitat take through 2050.

When all impacted natural communities are considered it is estimated that 56,300 acres of land will be impacted by development authorized by participating agencies through the year 2050. The total area of the Phase 1 boundary subject to this permit is approximately 163,000 acres (therefore take represents approximately 25% of the total land area of Phase 1 which includes existing urban/built up areas including non-participating cities). Much of this land contains important habitats that provide food, coverage, forage, nesting, etc. for a number of sensitive species. It is important to note that this is an estimate of the total amount of habitat that could harbor endangered species. It is generally assumed that the covered species now inhabit or could inhabit this habitat. It would not be possible to exhaustively evaluate all 56,300 acres to actually determine if endangered species are present or absent. Therefore, for initial planning purposes the 56,300 acres of impacted land will serve as the baseline assumption to determine what mitigation and conservation is to be required. The total take including that associated with development in the non-participating cities (Auburn, Loomis, Rocklin, and Roseville) is projected to be 70,400 acres between 2002 and 2050.

Table 1 summarizes the total amount of land conversion that is anticipated at the year 2050.

**Table 1 (In Acres)**  
**2002 - 2050 Land Conversion in the Phase 1 Area (Western Placer County)**

	<b>All Valley</b>	<b>All Foothill</b>	<b>PCCP Total</b>
Recovery Land Base	19,469	15,105	34,573
Vernal Pool	6,033	0	6,033
Oak Woodland	1,016	14,280	15,296
Stream System	126	260	385
<b>Total</b>	<b>26,643</b>	<b>29,644</b>	<b>56,288</b>

The recovery base land referenced above consists of a number of types of agricultural land including rice and rangeland, and non-agricultural lands that are not considered one of the 3 resource types listed above. The recovery land base provides a range of habitat, agricultural and open space values and the conservation of this land base is integrated into the PCCP. It provides the essential upland for some species and provides connectivity and other values to those species that may not inhabit the land base as a part of a species unique needs.

#### **The Case 4 Scenario**

The PCCP sets conservation objectives for Western Placer County. The main emphasis for the Valley portion is vernal pool/grassland, while the main emphasis for the Foothills portion is oak woodland. The PCCP Phase 1 area is all The PCCP establishes mitigation for public works and private development, distinguishing between growth in existing urban and built-up areas and in the development opportunity areas. The Phase 1 PCCP covers all County unincorporated land and the City of Lincoln.

The principal conservation program currently under evaluation is illustrated by "Case 4". As noted by the number "4", the staff and consultants have reviewed 3 other alternatives and are presenting this case at this time not as a recommendation but as the case that best represents the current discussions on mitigation needs. As a point of information, Cases 1, 2, and 3 all reviewed a range of avoidance, restoration and conservation costs. Case 4, it was felt, best represented a overall strategy that was consistent with the PCCP objectives. Case 4 *does not* have the endorsement or support of any agency at this time.

Case 4 reflects an emphasis on contribution to species recovery in the development opportunity areas by mitigating growth on a 1 to 1 basis for all open land. For vernal pool complex areas, mitigation would be 2 acres of preservation of existing vernal pools plus 1.25 of restoration of vernal pools acres for each 1-acre of vernal pool take. Take and mitigation would be based on actual wetted acreage of vernal pools; for planning purposes, the mitigation land needs projections are based on a typical wetted vernal pool density of 5% (five wetted acres in 95 non-wetted or upland acres).

#### **Example:**

As an example, development of a 500 acre project site with 5 acres of wetted vernal pools in a 100 acre vernal pool complex would require 400 acres of recovery base land (agriculture, range land, or other land) to mitigate irreversible loss of capacity to recover natural communities. The vernal pool loss would require preservation of 10 acres of wetted vernal pools elsewhere on- or off-site in 200 acres of vernal pool complex lands and restoration of 6.25 acres of wetted vernal pools on 125 acres of land, which may be a portion of the 400 acres of recovery base land. That is the purpose of recovery base land.

There are similar standards for oak woodland, but landscape projections are more complex, reflecting the wide variation in actual tree canopy cover and species diversity. (Note: It is possible that CEQA mitigation for native tree impacts could partially or wholly fulfill the PCCP requirements for this resource.)



Table 2 summarizes the anticipated mitigation and conservation requirements under Case 4 for the take that is expected as a result of covered activities. The acreage figures account for protected acres and restored acres. The Vernal Pool, Oak Woodland and Stream System are simplified representations of a number of natural communities that have been delineated on the baseline mapping. This was done to simplify the representation of data. More explicit data will be incorporated into the actual conservation plan.

**Table 2**  
**Mitigation and Conservation Needs 2002 –2050 (Measured in Acres)**

<b>Ecosystem Type (acres)</b>	<b>Valley</b>	<b>Foothill</b>	<b>PCCP Total</b>
Oak Woodland	817	7,373	8,190
Aquatic and Wetland	504	420	924
Valley-Foothill Riparian	704	620	1,324
Valley Grassland/Vernal Pool	12,316	0	12,316
Agriculture	14,951	4,127	19,078
<b>Total All Ecosystem Types</b>	<b>29,293</b>	<b>12,540</b>	<b>41,833</b>

Note: Mitigation Only Results in  
A Requirement for 33,583 acres.

It is important to note that these are preliminary acreage figures that are being evaluated right now by the County and the regulatory agencies that are involved in the development of this program. Consequently, the mitigation and conservation acreage could be modified once the final negotiations have been completed. Nevertheless, they provide an adequate basis for discussing anticipated costs. Because oak woodland impacts need further analysis, it is likely that the range of mitigation requirements and resulting costs for oak woodland mitigation will need to be adjusted at a future date.

#### **PROGRAM IMPLEMENTATION COSTS**

Staff is making every effort to understand the costs associated with this program through the following efforts:

- Contacting other agencies that have prepared or are preparing an NCCP
- Hiring an economic consultant to perform analysis
- Hiring consultants, attorneys and advisors
- Stakeholder group meetings representing diverse interests, including the development community
- Carefully examining the assumptions regarding the program, while recognizing negotiations for the program content are pending.

Provided today is the preliminary economics study data with the plan to bring back a more comprehensive economic report and financing plan alternatives in a few months. The costs associated with this program are significant. It is important to recognize that the financing alternatives are not fully arrayed at this time. However, based upon current county policy,



the County regularly requires that new development pay their fair share cost of new facilities and services. These policies would extend to PCCP obligations. Two key policies read as follows:

**Policy 4.B.1.** The County shall require that new development pay its fair share of the cost of all existing facilities it uses based on the demand for these facilities attributable to the new development; exceptions may be made when new development generates significant public benefits (e.g., low income housing, needed health facilities) and when alternative sources of funding can be identified to offset foregone revenues.

**Policy 4.B.2.** The County shall require that new development pay the cost of upgrading existing public facilities or construction of new facilities that are needed to serve the new development; exceptions may be made when new development generates significant public benefits (e.g., low income housing, needed health facilities) and when alternative sources of funding can be identified to offset foregone revenues.

Policy 4.B.3. is a similar policy that relates to the provision of public services. A large percent of acquisition, monitoring, and maintenance costs will be borne by project proponents that undertake development that creates the impacts on habitat resources subject to the PCCP's requirements.

For the most part, project proponents include land development interests and to a lesser extent, local government interests. For example, Placer County, the City of Lincoln and the Placer County Water Agency will conduct activities over the term of the permit that will result in a need for an incidental take permit. The PCCP will cover the regulatory obligations. The majority of the take impacts will be associated with land development activities. It's possible that a small percentage could be associated with agricultural activities if the agricultural community seeks coverage through the PCCP. Given the land use projections for the County it is reasonable to conclude that private projects will bear most of these costs, while public agencies will pay a small share related to infrastructure projects generally.

**Costs Overview** – The implementation of the PCCP involves a range of costs. They can generally be separated into 3 major components: 1) One-time land acquisition costs in the form of fee title or conservation easements; 2) One-time habitat restoration costs; and 3) On-going operational/management costs. The cost summary described below describes each of these components. The initial cost estimate presented to the Board in May of this year was based upon a recently adopted NCCP/HCP in Riverside County. The cost summary below is based upon the preliminary results from Hausrath Economics Group under contract to Placer County to prepare the fiscal impact and financial alternatives analysis for the PCCP.

In the tables below, the term "public conservation" refers to those costs that are assumed to be covered by funding beyond the mitigation funds collected through the PCCP. The PCCP includes conservation efforts beyond those associated with mitigation of impacts as a consequence of covered activities, primarily new residential and non-residential development in western Placer County. There are state/federal grant programs that are available to implement programs like the PCCP once the final implementation begins. The consultant

team has assumed a level of state/federal funding based upon experiences in other jurisdictions in California.

The identified costs would be borne by project proponents that undertake development that creates the impacts on these resources.

**Land Acquisition Cost Summary** – The land acquisition costs are based on analysis of generalized locations and characteristics of properties that would be acquired to satisfy the conservation goals of the PCCP. Land value estimates are based upon analysis conducted by the appraisal firm of Bender-Rosenthal. The current analysis is conservative in the sense that it assumes that the majority of acquisitions will be through a fee title acquisition. It's generally possible to identify willing sellers for fee title transactions over time because property is routinely transferred and sold. To identify willing sellers for conservation easements on the other hand has proven to be more difficult and that trend is expected to continue. Conservation easements could, on average, reduce the cost of protection by as much as 50% for each property acquired.

With fee title lands there is the likelihood of some cost recovery. Fee title lands can be resold to the private sector with a conservation easement for agricultural or open space uses after the initial sale is complete, at a reduced price. Agricultural leases can be let on fee title lands and some recreational activities might be possible as well. These potential recovery costs have not yet been calculated.

Table 3 provides a summary of one-time land acquisition costs through 2050. The cost covers all of the major natural communities that are to be included in the mitigation obligation and the public conservation component of the PCCP. The acquisition cost includes acquiring land in fee title, acquiring easements, conducting pre-acquisition surveys, and undertaking one-time site maintenance activities.

**Table 3**  
**Land Acquisition Cost Summary (Case 4)**

<b>Acres Acquired</b>	<b>Avg. Cost/Acre</b>	<b>Total Acquisition Cost</b>
41,833	\$6,400	\$268,000,000

#### **Habitat Restoration**

In order to meet the mitigation requirements of the PCCP, it is necessary to have a component of restoration of certain resource types. Restoration activities are prevalent today for project mitigation and it appears to be necessary at a more landscape scale as well. Based upon our review of costs, it is apparent that a conservation program that is heavily dependent upon restoring habitat in order to meet mitigation and program objectives has the potential to significantly increase the cost of the program. In addition to the cost of acquiring land, it is then necessary to conduct the restoration activities (estimated to be as much as \$36,000 to \$43,000/acre of restored habitat). In addition to these direct costs, the management costs are higher in order to insure that the restored habitat meets performance objectives over time.

Consequently more monitoring occurs, more labor-intensive site management occurs and remedial costs are incurred to correct deficiencies over time.

Table 4 depicts the initial estimate of one-time restoration costs for the Case 4 scenario described above. The costs are a cumulative summary of costs at year 2050, the approximate final date of the permits. (Note that restoration occurs on acres acquired under the PCCP. The acreage described in Table 4 is not in addition to the acreage described in Table 3.)

**Table 4**  
**One-time Restoration Costs through 2050**

<b>Acres Restored/Created</b>	<b>Avg. Restoration Costs/Acre</b>	<b>Total Restoration Cost</b>
11,288	\$43, 000	\$486,000,000

Once again, staff believes the program financing will be built upon most of these costs being paid as development occurs by private developers that create the impacts. Further study will be undertaken as the conservation plan and implementing agreements progress to identify the costs relative to current mitigation and permitting costs. This information will be important to fully analyze the potential benefits of the proposed approach.

#### **Program Administration Costs**

The management of a PCCP includes significant on-going costs as well. Staff administrative costs are only a part of the numerous costs associated with the management of PCCP. Because the PCCP permits will be integrated into the County's existing environmental and discretionary review process, new costs associated with permit negotiations are not expected to be high. Staff continues to contact other jurisdictions to gain an additional understanding of costs. However, the cost to acquire and manage thousands of acres of land will be high. The administrative obligations associated with permit tracking, the handling of funds, etc. will result in new costs to the County and other participating agencies that will need to be offset by new funding sources. Hausrath Economics Group, with the assistance of Jones & Associates, has compiled the anticipated summary of administrative costs for the Case 4 scenario described above. The data is based upon management costs incurred in other jurisdictions with similar planning programs.

For purposes of this analysis the following individual costs were estimated. Table 5 summarizes the annual management costs at three points in time over time life of the PCCP permit.



#### **Summary of Management Costs**

<b>Program Administration</b>
Administrative Personnel Cost
Program Administration Contractors
Administrative Overhead
<b>Site Management</b>
Field and Technical Oversight
Waterway Maintenance and Protection
Roadway Maintenance and Wildlife Protection
Land Management and Maintenance
<b>Restoration Management</b>
Field and Technical Oversight
<b>Monitoring, Research, and Adaptive Mngmt.</b>
Field and Technical Oversight
Ecosystem Monitoring
Research, Adaptive Mngmt & Remedial Measures

The costs depicted in Table 5 are borne annually. The table represents the initial start up cost at the year 2005, a mid-term cost at 2025 and a final annual cost at 2050. Some costs are expected to increase at the beginning, peak and then decline towards the end of the permit term because restoration and acquisition needs will have been satisfied. Additionally, costs will continue after the permit term expires because of the ongoing management and monitoring obligations.

**Table 5**  
**Summary of Annual Ongoing Costs**

<b>Management Activity</b>	<b>2005</b>	<b>2025</b>	<b>2050</b>
Program Administration	\$883,000	\$792,000	\$704,000
Site Management	515,000	2,145,000	3,659,000
Restoration Management	353,000	590,000	614,000
Monitoring, Research, and Adaptive Management	1,044,000	7,039,000	14,541,000
<b>Total Annual Costs</b>	<b>\$2,795,000</b>	<b>\$10,566,000</b>	<b>\$19,518,000</b>

#### **State/Federal Funding Support**

The majority of the cost to implement and support the PCCP is expected to be borne by covered activities requiring mitigation. Mitigation fees, assessments, etc. are options for the Board's consideration for pay for the majority of the projected program costs. In addition, the County and the participating agencies will pursue outside funding support from a number of entities including state and federal government. For the Case 4 scenario, the staff and consultants have prepared an assumption that about 20% of the one time costs would be borne by the these outside funding sources. This funding support comes primarily through grant funds such as the Section 6 funds of the federal Endangered Species Act. Table 6 describes the breakdown of one-time land acquisition and restoration costs and Table 7 describes the funding support for ongoing costs. State and federal support is highest in the early to middle years of the PCCP because most of the costs would be associated with restoration management, monitoring, and adaptive management. Administrative costs are assumed to be a local obligation for the most part.



**Table 6**  
**State/Federal Contributions to One-Time Costs**

	<b>Local Mitigation</b>	<b>State/Federal</b>	<b>PCCP TOTAL</b>
Land Acquisition	\$212,000,000	\$56,000,000	\$268,000,000
Restoration	384,000,000	102,000,000	486,000,000
<b>Total One Time Costs</b>	<b>\$596,000,000</b>	<b>\$158,000,000</b>	<b>\$754,000,000</b>
<b>Percent of Total Costs</b>	<b>79%</b>	<b>21%</b>	<b>100%</b>

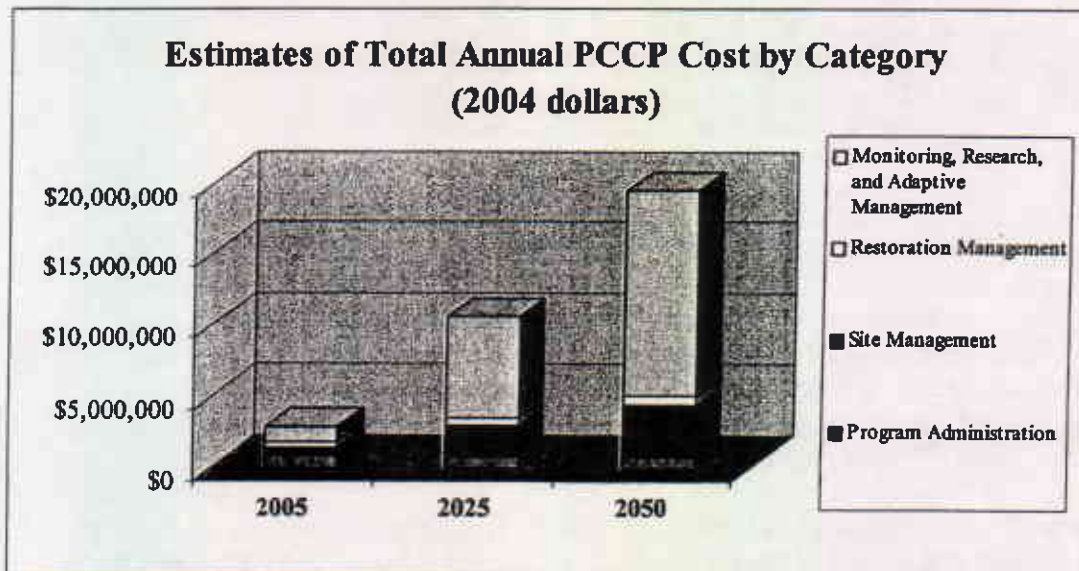
**Table 7**  
**State/Federal Funding Contributions to Ongoing Costs**

	<b>2005</b>	<b>2025</b>	<b>2050</b>
Local Mitigation	\$2,655,000	\$10,036,000	\$18,542,000
State/Federal Contribution	\$140,000	\$528,000	\$976,000
<b>Total Annual Costs</b>	<b>\$2,795,000</b>	<b>\$10,566,000</b>	<b>\$19,518,000</b>
<b>State/Federal Share of Total Annual Cost</b>	<b>63%</b>	<b>44%</b>	<b>20%</b>

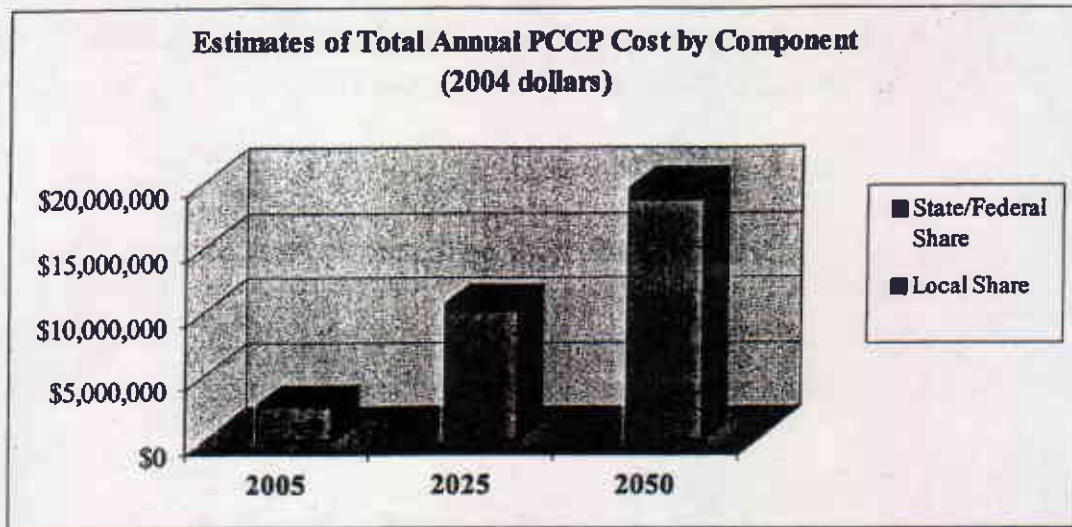
**Cost Summary**

The following charts represent a summary of both ongoing costs and one-time costs in bar graph form. Chart 1 is a summary of annual costs at 2005, 2025 and 2050. Chart 2 is a summary of the split between local obligations and state/federal cost support. Chart 3 is the cumulative cost at year 2050 for land acquisition and restoration.

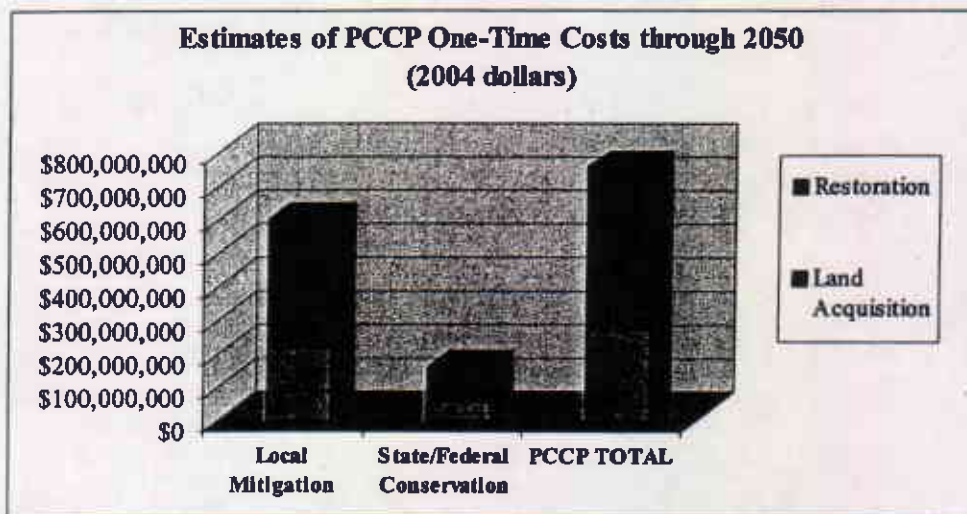
**Chart 1**



**Chart 2**



**Chart 3**



### **PCCP Finance Plan**

The summary above describes preliminary estimates of PCCP costs for Western Placer County. A finance plan is to be prepared which provides recommendations on how the financial obligations can be met. The plan will also need to address the funding that would need to be obtained from funding partners such as state and federal agencies. The next update to the Board will likely include the draft finance plan and fiscal impact analysis.

It is anticipated that most of the local mitigation costs of the PCCP will be borne by the new development receiving incidental take coverage for impacts to species and habitat under the PCCP permit. This would include primarily new development in unincorporated western

Placer County and the City of Lincoln. Staff takes this position because of General Plan policy language adopted in 1994 discussed above.

Projections prepared for the PCCP indicate long-term growth from 2002-2050 of about 162,000 additional households, additional household population of 321,000, and 263,600 additional jobs for the Phase 1 area (western Placer County). This includes growth that would be accommodated in non-participating cities - Auburn, Loomis, Rocklin, and Roseville. The analysis conducted for the PCCP indicates that about 70 percent of Phase 1 area population growth and 60 percent of Phase 1 area employment growth could occur in the unincorporated areas and in the City of Lincoln, considering the development potential represented by the adopted Placer County and City of Lincoln General Plans, and development opportunity areas under consideration by the County and the City of Lincoln in their General Plan update.

New residential and non-residential development in the unincorporated area and the City of Lincoln will bear much of the cost of the local mitigation component of the PCCP, largely proportional to the conversion of land from non-urban to urban uses. For example, since non-residential development would represent about 15 percent of the total conversion to urban uses, it is likely that non-residential development would bear a share of the mitigation cost proportionate to that impact.

A number of factors could reduce these costs including spreading the cost to additional households, acquiring a higher percentage of conservation easements versus fee title, obtaining greater funding support from state/federal agencies over time, establishing revenue generating activities, etc. Conversely other factors could increase these costs including inflated land costs, increased administrative costs, adaptive management obligations and others. Thus it is important to point out, again, that these are preliminary estimates that are to be further refined.

Lastly, it is not possible for staff to insure to the Board at this time that the above costs will not, in some way, result in support costs from the County in order to insure implementation of the plan.

#### **Cost Comparison**

The summary of the costs listed above demonstrate that the implementation of the PCCP is a expensive endeavor. Both the acquisition/restoration costs and the ongoing costs involve hundreds of millions of dollars. While these numbers are significant, they can and should be seen in the same light as other costs associated with development. When compared to these other costs, the order of magnitude does not change but it helps put these costs into perspective, i.e., they are a significant part of an overall obligation.

Parties seeking development entitlements in the non-participating agencies will continue to incur costs on a case-by-case basis. Because these costs are incurred by the private sector it is difficult if not impossible to compare those costs to the mitigation costs associated with the implementation of the PCCP. However, the development community incurs substantial costs as a result of delays associated with uncertainty, negotiations, and settlements that are



commonly part of the process for mitigating impacts to species and habitat on a case-by-case basis. One of the primary benefits of the PCCP to the development community is certainty and predictability—a source of substantial economic benefit in an increasingly complex development environment.

The following list of funding projects are included in order to show the type of funding obligations that are currently associated with urban forms of land development. These costs range from bond sales for school districts, to comprehensive funding requirements of a large specific plans to the acquisition efforts of an open space district. Numerous other examples are out there and can be incorporated. What can be learned from this brief summary is that urban land development requires very substantial public and private sector funding support. The PCCP would be an expensive element of that requirement but one that is representative of other similar costs that must be incurred to support the necessary range of facilities and services and meet mitigation obligations.

- Rocklin Unified School District - \$30 million
- North Central Roseville Mello-Roos District - \$70 million
- Placer Vineyards Specific Plan - \$417 million for all infrastructure and school facilities
- Placer Parkway - \$250-\$300 million
- State Route 65 Bypass – \$225-275 million
- Mid-Peninsula Open Space District - \$28 million
- San Diego Multispecies Conservation Plan - \$339-\$411 million (1996 dollars)

#### **IMPLEMENTING AGREEMENT**

In order for the PCCP to proceed to implementation, it is necessary to complete the negotiation of an implementing agreement with the U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the California Department of Fish and Game. The implementing agreement will establish the rules and procedures that will govern the participating agencies and the regulatory agencies who will issue the permits authorizing the take of endangered species. This implementing agreement also serves to pass through to the County and the participating agencies, the obligation to carry out the PCCP as stipulated in the conservation plan and the agreement itself.

The PCCP implementing agreement is expected to meet the following objectives:

- To outline the manner in which the permittees will comply with the terms of the conservation plan.
- To outline the manner in which permittees will comply with the State and Federal Endangered Species Act and the State Natural Communities Conservation Plan Act as defined by the conservation plan.
- To implement the conservation plan in order to adequately provide for the conservation and protection of the plan's covered species and their habitats.
- To limit, reduce, or eliminate future obligations to require new or different mitigation. As long as the terms of the conservation plan and implementing agreement are



adhered to, the wildlife agencies will not require additional mitigation from permittees.

- To describe the basic obligations of the participating agencies (i.e., the conservation of acres of important natural communities) and how that is to be achieved.

The implementing agreement will provide detailed language which will:

1. Specification of the mitigation obligations in terms of acres mitigated.
2. Specification of the conservation obligations in terms of acres conserved.
3. Habitat evaluation procedures.
4. Property owner negotiation procedures.
5. A conflict resolution process.
6. Accounting procedures to keep track of land acquisitions and habitat gains and losses.
7. Mandatory management obligations including adaptive management.
8. Mandatory monitoring obligations.
9. Mandatory annual reporting requirements.
10. Definition of the institutional management structure (e.g., JPA or special district) and the obligations of each participating agency.
11. Definition of key committee roles and obligations including, for example, a funding coordination committee, a reserve management committee, the role of independent science advisors, and the role of support staff.
12. The specification of the funding program terms including the funding of land acquisitions, administration and land management.
13. The endangered species take authorizations for each participating agency and third party take authorizations for private sector individuals and businesses.
14. The "No Surprises" assurances that future species listing will not effect the PCCP if the plan provides adequate land area for the species.
15. The term of the permit (e.g., 50-years).
16. Modification and amendment procedures.
17. Termination procedures for participating agencies.
18. Remedies and enforcement including permit suspension procedures for the wildlife agencies.
19. Stipulation of the legal authority for the wildlife agencies to act upon the PCCP.
20. Signature pages.

It will be the approval of the implementing agreement by the Board of Supervisors that will serve as Placer County's concurrence to proceed with the plan. Not until the implementing agreement is fully negotiated and executed will Placer County (or the participating agencies) be obligated to carry out the terms of the PCCP as expressed in the implementing agreement. Outside counsel (Resources Law Group) will be preparing the first draft of the implementing agreement after the PCCP is ready for public circulation. This is expected late winter of 2004 or early spring of 2005.

It should be noted that additional agreements are expected in order to comply with Sections 404 and 401 of the Clean Water Act and Section 1600 of the California Fish and Game code related to Streambed Alteration Agreements. The staff will provide an update to the Board on these agreements at a later date.

#### **NO SURPRISES LITIGATION – An Update**

In 1994, the FWS and the NOAA FISHERIES instituted a policy known as the “No Surprises” policy. What the policy provides is a set of assurances to private landowners that if “unforeseen circumstances” arise, the FWS/NOAA FISHERIES will not require the commitment of additional land, water or financial compensation or additional restrictions on the use of land, water, or other natural resources beyond the level otherwise agreed to in the HCP without the consent of the permittee. Under this policy the federal government is to honor these assurances as long as a permittee is implementing the terms and conditions of the HCP, permit, and other associated documents in good faith. The No Surprises policy is controversial because it prevents stronger measures from ever being implemented, even if biologists find that the permitted action is having a greater impact on the species than anticipated. This policy applies to habitat conservation plans approved by FWS/NOAA FISHERIES (an HCP is a part of the County’s proposed PCCP). In February of 1998 the “No Surprises” policy became a part of the federal regulations (63 Fed. Reg. 8859).

In 2004, a law suit was filed that sought to set aside the No Surprises regulation (see: *Spirit of the Sage Council v. Norton*, 294 F.Supp.2d 67 (D.D.C. 2003); see 13 Cal. Land Use L. & Plc’y Rptr. 97 (Jan. 2004)). In June, the Department of Interior lost the law suit, the result of which is that the FWS/NOAA FISHERIES cannot issue incidental take permits which contain No Surprises provisions. What this means to Placer County right now is that we could not receive the incidental take permit that we are seeking from the federal wildlife agencies. This problem will need to be resolved in order for us to proceed to the successful completion and ultimate implementation of the PCCP.

On May 25, 2004, the Department of Interior responded to the court’s ruling by proposing new rules in the Federal Register. On July 23, 2004, the County, along with a number of other agencies, submitted a letter to the Department Interior providing our comments on the new rules and our support for the new No Surprises regulation (Attachment G). The Bush Administration has stated publicly their desire to insure that No Surprises remains a part of the HCP Program. As stated by the Deputy Secretary of the Department of Interior, “Simply put, the policy embodies the American value of ‘a deal’s a deal.’ The policy gives landowners certainty - and an incentive to take affirmative measures that they would not otherwise be required to do.”

Because this is such an important element of the County’s proposed PCCP it will be important to follow the status of these regulations. It is anticipated that the new No Surprises regulations will be in effect at such time that the County and its participating agencies request incidental take permits. No Surprises assurances are also provided in Safe Harbor Agreements discussed below.

## **SAFE HARBOR AGREEMENTS**

This section of the staff report is intended to provide background information to the Board on Safe Harbor Agreements because of their relationship to the Federal Endangered Species Act. They are an important part of conservation planning for landowners and regulators but they are not an integrated part of the PCCP.

Safe Harbor Agreements are a voluntary, separately negotiated agreement between a landowner and FWS or NOAA Fisheries. In many respects they are an alternative method for a property owner work with and comply with the Federal Endangered Species Act. The purpose of a Safe Harbor Agreement is to allow a landowner to "freeze" his or her federal Endangered Species Act obligations if the landowner agrees to restore, enhance, or create habitat for that species. Safe Harbor Agreements were developed to address fears that property owners may have about, and remove disincentives for, creating habitat, not to address or authorize activities that will harm habitat. The property owner's obligation is to maintain the original or baseline habitat conditions for the original endangered or threatened species. For example, under the terms of a Safe Harbor Agreement, a landowner may elect to enhance certain elements of their property that have the potential to harbor an endangered species. In fact, the habitat improvements might actually result in the establishment of a species on the site. What the agreement provides the landowner is protection from having new regulations imposed on their land management activities because of the real or potential presence of an endangered species. The Safe Harbor Agreement would also allow the landowner, at some future date, to modify or even eliminate the habitat that they established resulting in a take the endangered species present. An example in Placer County would be a hunting club that constructs habitat enhancements that could be beneficial to endangered species. The property owner could conduct their improvements and conduct their business without the threat of additional regulations once the habitat enhancements were completed. If, at a later date, the habitat enhancements were to be eliminated (e.g., converted to agricultural production), the potential take of an endangered species in that habitat would already be covered.

The agreement itself is a voluntary, legal, cooperative agreement with the FWS/NOAA Fisheries that provides criteria for the creation or improvement of habitat for endangered species, while allowing for the use of the land under strict guidelines and supervision. The Safe Harbor concept was developed by Environmental Defense (a non-profit organization) and the FWS to encourage landowners to restore and maintain habitat for endangered species without fear of incurring additional regulatory restrictions. Proponents of safe harbor agreements believe that more habitat will be restored or created using this process.

Conservation advocates have voiced several concerns about safe-harbor agreements. The most important concern relates to determining what conditions exist on a property before the safe harbor agreement is approved.

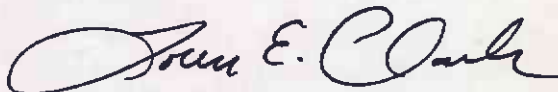
Safe Harbor Agreements can be prepared consistent with, and in response to the County's PCCP, but they are not an integral part of the actual work program. Because of potential landowner interest in the opportunities provided by a Safe Harbor Agreement, the County would work with landowners and FWS/NOAA Fisheries where such agreements are sought.

Lastly, it needs to be noted that Safe Harbor Agreements do not apply to the State Endangered Species Act (CESA). However, CESA generally exempts agricultural activities from regulatory requirements.

**RECOMMENDATIONS:**

This information is presented for discussion purposes only. There are no additional recommendations at this time.

Respectfully Submitted



Loren E. Clark  
Assistant Director of Planning

**ATTACHMENTS:** The following attachments are provided for the Board's consideration

Attachment A:	Conservation and Development Opportunity Map - Alternative 5
Attachment B:	Revised Conservation and Development Opportunity Map – Alternative 6
Attachment C:	August 5, 2004 letter from South Placer Regional Transportation Authority
Attachment D:	July 19, 2004 email from Einar Maisch, Placer County Water Agency
Attachment E:	June 18, 2004 letter from Rod Campbell, City of Lincoln
Attachment F:	September 2, 2004 letter from Rich Gresham, Resource Conservation District
Attachment G:	Letter signed by Jan Christofferson in support of new No Surprises legislation
Attachment H:	Cost Assumptions for preliminary cost analysis.

cc: Jan Christofferson, County Executive Officer  
Anthony La Bouff, County Counsel  
Rod Campbell, City of Lincoln  
Einar Maisch, PCWA  
Celia McAdams, PCTPA  
Rich Gresham, RCD  
Tom Miller, Fac. Ser.  
Chris Beale, Resources Law Group  
BWG Members  
IWG Members  
HEG  
JSA  
Tom Reid & Associates



# Western Placer County Conservation Opportunity Analysis

**Figure 8 - Conservation and  
Development Opportunity Map  
Alternative No. 5**

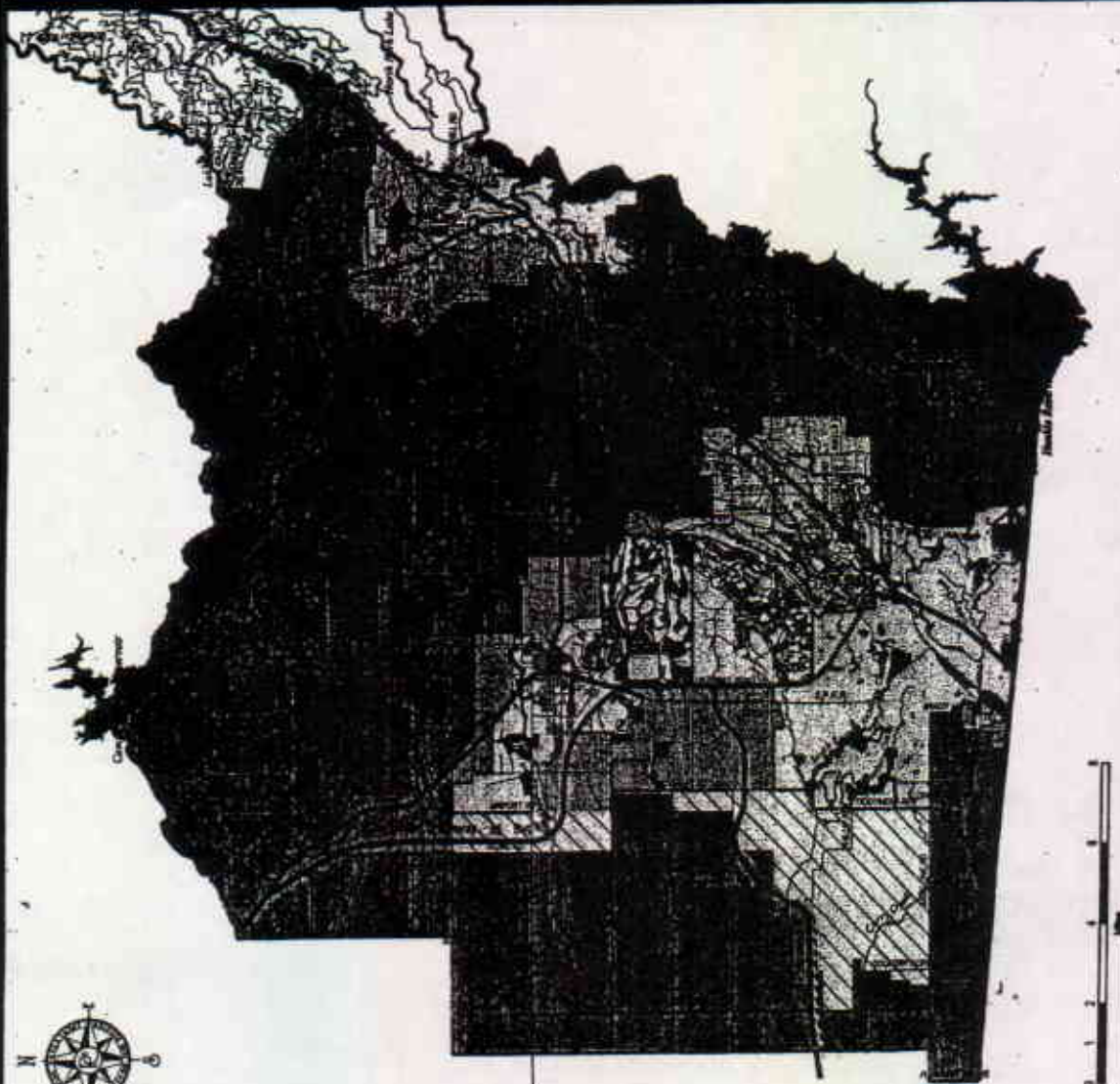
## LEGEND

-  Cities
-  Conservation Opportunity Area
-  City/County General Plan Open Space Designations  
(Acreage figures not included in Analysis.)
-  Development Opportunity Area
-  Sphere of Influence
-  Unincorporated Development
-  Proposed Highway 65 Bypass
-  Proposed Placer Parkway
-  1000 ft Buffer

Created by the Placer County Planning Dept., GIS Division, 2001.  
Location: Placer County, California. Figure 8 - Conservation and Development Opportunity Map (Alt. 5)



ATTACHMENT A



ATTACHMENT A

# Western Placer County Conservation Opportunity Analysis

## Conservation and Development Opportunity Map Alternative 6

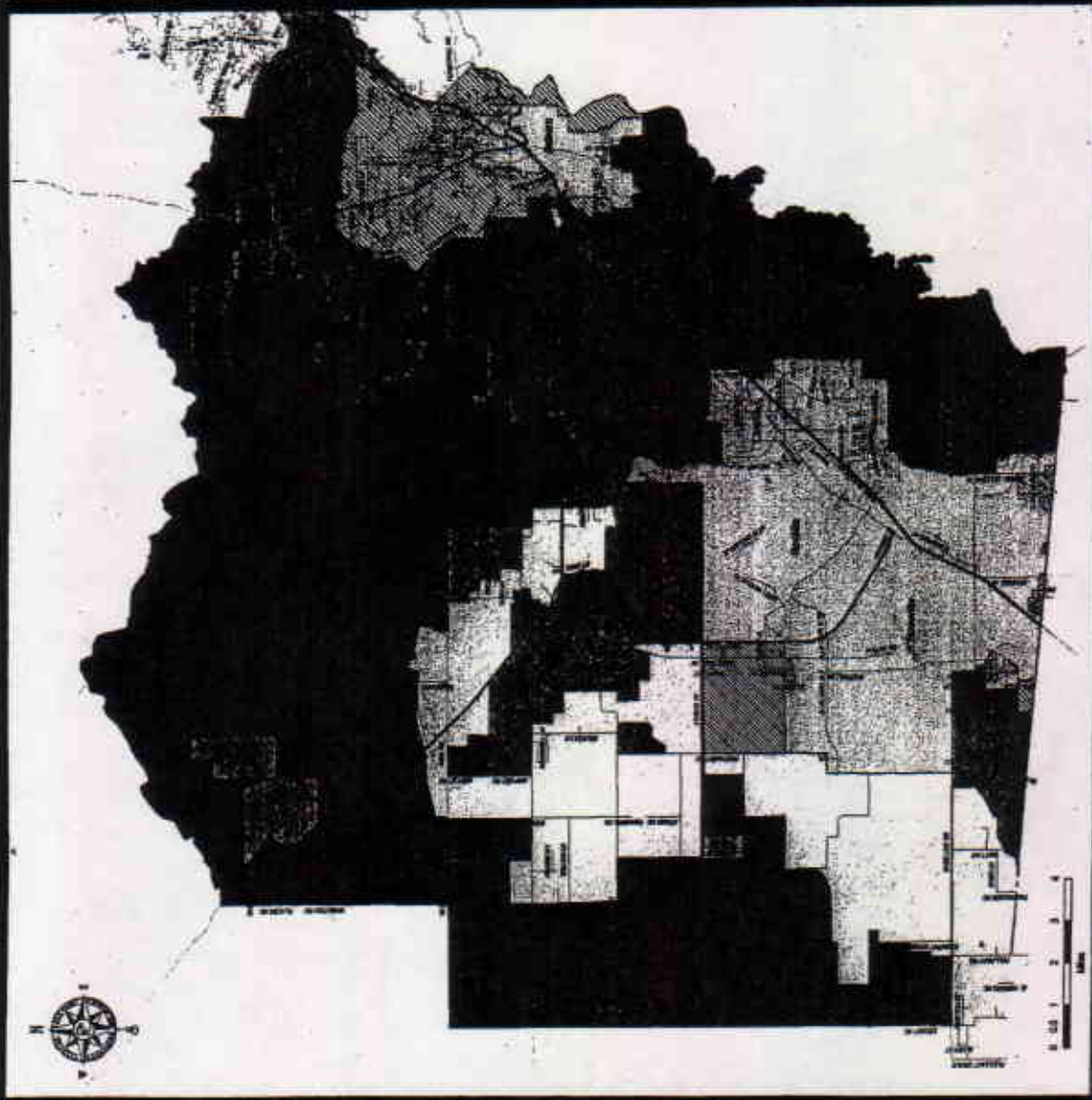
### LEGEND



Conservation and Development Opportunity Map, CDE Division, 2003.  
Location: 100% Agribusiness, 100% Community Opportunity Area  
August 27, 2004



ATTACHMENT B



ATTACHMENT B





City of Lincoln • City of Rocklin • City of Roseville • Placer County

RECEIVED  
AUG 16 2004

August 5, 2004

PLANNING DEPT.

Fredric K. Yeager, Director of Planning  
Placer County Planning Department  
11414 B Avenue  
Auburn, CA 95603

**RE: Placer County Conservation Plan**

Dear Mr. Yeager,

Thank you for your July 28, 2004 letter concerning the Placer County Conservation Plan (PCCP) and our interest in either including future transportation improvement projects or in participating in the PCCP in some way. I understand you need notification by August 13 for the federal environmental review's Notice of Intent.

The South Placer Regional Transportation Authority (SPRTA) is a joint powers authority consisting of Placer County, Lincoln, Rocklin, and Roseville. SPRTA identifies and provides funding for regional transportation improvement projects.

Loren Clark, of your staff, discussed the PCCP with me. The PCCP appears to be a comprehensive program that will streamline development reviews and establish a long-term conservation program. From the perspective of a regional transportation entity in south and western Placer County, greater SPRTA involvement in the PCCP seems to be appropriate.

However, official interest can only be made by the SPRTA Board. The next meeting is on August 25. At this meeting, the Board will take action on a staff recommendation to complete a draft PCCP MOU that designates SPRTA as a participating agency. I will relay the results of their action to you.

ATTACHMENT C

249 NEVADA STREET • AUBURN, CA 95603 • (530) 823-4030 • FAX 823-4036

**Fredric K. Yeager**  
**Placer County Conservation Plan**  
**Page two**

I greatly appreciate Placer County's continuing interest in regional transportation improvements and ways to facilitate them. Please contact Stan Tidman at 823.4033 or myself for any more information.

Sincerely,



**Celia McAdam, AICP**  
**Executive Director**

**Copies:**     **SPRTA Board**  
                 **Loren Clark, Placer County Planning Dept.**  
                 **Melissa Batteate, Placer County Planning Dept.**



**From:** "Einar Maisch" <elmaisch@pcwa.net>  
**To:** <fyaeager@placer.ca.gov>  
**Date:** 7/19/04 12:06PM  
**Subject:** PCCP

Dave asked me to respond to your July 1 2004 letter requesting the Agency make a determination regarding whether to seek coverage for the potential impacts of planned future activities and participate in the Placer County Conservation Plan. Hopefully, you will find this email satisfactory.

I understand that the presentation by Loren Clark at the Agency's July 15 Board meeting was very good. Thank you to Loren. And that the Board expressed their clear desire to continue to participate in the PCCP and to seek coverage for activities that make sense to have included. I also understand that Jan Goldsmith, the Agency's legal counsel was asked to review the participation agreement and report back soon. I believe that Dave Breninger would like to bring this back to the Board for action in August.

Follow up activities that I see include meeting to: Develop a final list of covered activities; and, Discuss and define the Agency's financial participation in the PCCP. I am available to meet anytime on July 27, 29 or 30, or on the afternoon of the 28th. Please let me know if any of those times work for you.

Einar Maisch, Director of Strategic Affairs  
Placer County Water Agency  
(530)823-4889  
elmaisch@pcwa.net

**CC:** "Loren Clark" <LClark@placer.ca.gov>, "Janet Goldsmith" <jgoldsmith@kmtg.com>, "Dave Breninger" <dbreninger@pcwa.net>, "Otis Wollan" <otis@foothill.net>, "Mike Lee" <leeriolo@jps.net>, "Pauline Roccucci" <richpaul@mindsync.com>, "Lowell Jarvis" <LJarvis@cdfa.ca.gov>, "Alex Ferreira" <aravine@vfr.net>, <jmarin@placer.ca.gov>, "Mal Toy" <mtoy@pcwa.net>

ATTACHMENT D



640 Fifth Street • Lincoln, California 95648 • [www.ci.lincoln.ca.us](http://www.ci.lincoln.ca.us)

June 18, 2004

RECEIVED  
JUN 18 2004  
PLANNING DEPT.

Fred Yeager  
Director of Planning  
11414 B Avenue  
Auburn, California 95603

Re: Phase I Placer County Conservation Plan.

Dear Mr. Yeager:

Thank you for your letter of June 8, 2004 regarding the City of Lincoln's interest in inclusion in the Notice of Intent to U.S. Fish and Wildlife Service for Phase I of the Placer County Conservation Plan. Because of my schedule last week and the recent arrival of your letter I had not been able to get back to you until now. I would like to express at this time the City of Lincoln's interest to be included in the Notice of Intent to U.S. Fish and Wildlife Services. In your letter it was indicated that it may become appropriate to establish a Memorandum of Understanding to further the planning process. We would be interested in reviewing a proposed Memorandum at your earliest opportunity. Again thank you for your assistance in this matter.

Sincerely,

  
Rodney Campbell  
Director Community Development

cc: Gerald Johnson, City Manager

#### ATTACHMENT E

City Manager's Office  
p: 916.645.3314  
f: 916.645.8903

Community Development  
p: 916.645.3320  
f: 916.645.3552

Finance & Administrative Services  
p: 916.645.3314  
f: 916.645.9502

Public Works  
p: 916.645.8576  
f: 916.645.6152

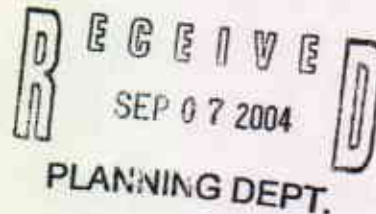


**Placer County Resource Conservation District**

251 Auburn Ravine Rd., Suite 107 - Auburn, CA 95603-3719 - Phone (530) 885-3046, Ext. 6 - Fax (530) 823-5504

September 2, 2004

Loren Clark  
Placer County Planning  
11414 B Avenue  
Auburn, CA 95603



Re: NCCP participation

Dear Loren,

Placer County Resource Conservation District did appreciate your recent presentation describing NCCP/HCP and the Board has informally expressed an interest in having a better understanding of what a formal partnership with Placer County might entail.

As a result of your presentation the District understands that the basis of an agreement has to do with identifying goals and obligations of those parties wishing to participate in the development of conservation plans for Placer County. Further, we generally understand that partners would agree to share data, information, staff time and sharing costs associated with conservation activities.

The District has provided a list of interim projects that we could carry out in such a partnership and include practices such as stream bank stabilization, fuel load reduction and all manner of erosion/sediment control practices.

This letter is to let you know of our continued interest and intent to discuss participation at our September 21<sup>st</sup> Board meeting. Please accept this letter as an invitation for you to participate with the Board so that their questions may addressed by you and other County representatives at that time.

Cordially,

Richard C. Gresham,  
Manager



July 23, 2004

**Sent By Facsimile and Electronic Mail**

Mr. Patrick Leonard  
Chief, Division of Consultation, Habitat Conservation  
Planning, Recovery and State Grants  
U.S. Fish and Wildlife Service  
4401 North Fairfax Drive, Room 420  
Arlington, VA 22203  
Fax: (703) 358-2229  
Email: <pprr@fws.gov>

RE: USFWS Proposal to Reestablish Permit Revocation Regulations  
RIN 1018—AT64

Mr. Leonard:

This letter responds to the U.S. Fish and Wildlife Service's ("USFWS") request for public comment on the proposal to reestablish the Permit Revocation Rule.<sup>1</sup>

The counties and special districts that have joined together in this comment letter would like to emphasize four key points in support of the proposed Permit Revocation Rule:

- California local governments can play a pivotal role in safeguarding natural resources, including species listed under the federal Endangered Species Act ("ESA");
- The significant challenges that confront local governments in carrying out this role can be moderated by regional habitat conservation planning;
- Uniform, clear and reasonable policies regarding the revocation and modification of incidental take permits ("ITPs") provide an important incentive for development of such plans; and
- Congress intended for USFWS to write uniform, clear, and reasonable policies regarding revocation and modification, to insert them into ITPs as terms and

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<sup>1</sup> 69 Fed. Reg. 29681 (May 25, 2004).

conditions, and to thereafter abide by those terms and conditions, so long as the permittee holds up its end of the bargain.

### 1. The Role of Local Government in Safeguarding Species.

California local governments can play an important role in safeguarding natural resources, including species listed under the ESA. The opportunity for them to do so arises under the inherent police power held by local governments, and under state statutes such as the California Environmental Quality Act and the California Planning and Zoning Law.

*The Police Power.* In the United States, the common law recognizes that the power to directly regulate land use is the province of governmental entities that have the "police power"—the power of the sovereign to protect public health and the safety and welfare of residents.<sup>2</sup> Within the ambit of the police power is also "the protection of endangered species of wildlife . . . as a matter of general concern and in the interests of the public."<sup>3</sup>

Local governments such as cities and counties have the police power inherently, not by virtue of a grant of authority from the state Legislature or federal government, and in California their possession of this power is also recognized in the state Constitution.<sup>4</sup> The police power is not only inherent but also plenary, in that its possessor may enact legislation of any and every type. In any circumstance where the exercise of the sovereign, inherent, and plenary police power is not limited by the U.S. Constitution or displaced by state law, California local governments have an ability to directly advance the protection of species wherever they independently deem appropriate.

*California Environmental Quality Act.* The California Legislature has also by statute provided local government with additional tools for advancing protection of the natural environment, including species. One example is the California Environmental Quality Act ("CEQA"),<sup>5</sup> which is, in certain ways, analogous to the National Environmental Policy Act<sup>6</sup> ("NEPA"). Under CEQA, when a public agency in California

<sup>2</sup> *Berman v. Parker*, 348 U.S. 26 (1954); *Solid Waste Agency of Northern Cook County v. United States Army Corps of Engineers* (2001) 531 U.S. 159, 174 (acknowledging "the States' traditional and primary power over land and water use").

<sup>3</sup> *People v. K. Sakai Co.*, 56 Cal. App. 3d 531, 539 (1976).

<sup>4</sup> Cal. Const. Art. XI, § 7; *DeVita v. County of Napa*, 9 Cal. 4th 763, 782 (1995). A city's police power is subject to displacement by general state law but otherwise is as broad as the police power exercisable by the state Legislature. *Birkenfeld v. City of Berkeley*, 17 Cal.3d 129, 140 (1976). The police power is even more pronounced with respect to charter cities in California, since, in matters relating to municipal affairs, they are exempt from the restriction that their ordinances and regulations cannot conflict with general laws. *Bishop v. San Jose*, 1 Cal. 3d 56, 61 (1969).

<sup>5</sup> Cal. Pub. Resources Code § 21000 et seq. ("CEQA"). The requirements of CEQA apply not only to cities and counties, but also to special districts, and other public agencies in California.

<sup>6</sup> 42 U.S.C. § 4321, et seq.

finds the impacts of a proposed project to be significant, the agency must address those effects through one or more findings, and typically by requiring mitigation.

CEQA includes a low threshold for deeming impacts on endangered, threatened, and rare species, and their habitat, to be significant.<sup>7</sup> CEQA's concept of significant effect embodies very high degree of sensitivity toward listed species. Under the CEQA Guidelines, a local government is required to find significant any project impact having the "potential to...reduce the number or restrict the range of an endangered, rare or threatened species..."<sup>8</sup> Under CEQA, such species include not only species that are listed under the ESA or the California Endangered Species Act<sup>9</sup> "CESA", but also species that should be but are not listed.<sup>10</sup> Under CEQA, thus, California local governments have a specific ability to apply a protective legal standard to a wide set of species. This power arises not at the behest of federal authorities nor through any delegation or in-lieu arrangement requiring federal approval, but rather through California state law.

*California Planning and Zoning Law.* Similarly, under the California Planning and Zoning Law,<sup>11</sup> state law provides local governments with particular statutory tools for species protection. A local government's general plan is the "constitution" governing all future developments.<sup>12</sup> A general plan in California is a comprehensive, long-term plan for the physical development of both the lands within the local government's jurisdiction, and of any land outside its boundaries which in the local government's judgment bears relation to its planning.<sup>13</sup> Any land use action subordinate to the general plan (e.g., a zoning decision or project permit) must be consistent with a legally adequate local general plan.<sup>14</sup> To be legally adequate, California law mandates that a general plan contain certain mandatory elements.<sup>15</sup> Among these are land use, conservation, and open space elements. The conservation element of the general plan addresses the identification, conservation, development and use of natural resources, including wildlife and others.<sup>16</sup> Through the Planning and Zoning Law, therefore, California local governments also have the ability to govern land use and address wildlife conservation in particular ways.

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<sup>7</sup> CEQA Guidelines, Cal. Code Regs., tit. 14, §15065, subd. (a) ("CEQA Guidelines").

<sup>8</sup> CEQA Guidelines, § 15065, subd. (a).

<sup>9</sup> Cal. Fish & G. Code, § 2050 et seq.

<sup>10</sup> CEQA Guidelines, § 15380, subd. (d).

<sup>11</sup> Cal. Gov't Code, § 65000, et seq.

<sup>12</sup> *Leshar Communications, Inc. v. City of Walnut Creek* (1990) 52 Cal.3d 531; *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553.

<sup>13</sup> Cal. Gov't Code, § 65300. The requirement to prepare and adopt a general plan applies to cities and counties.

<sup>14</sup> *Leshar, supra*, 52 Cal.3d at 544.

<sup>15</sup> Cal. Gov't Code, § 65302.

<sup>16</sup> Cal. Gov't Code § 65302, subd. (d.).



## **2. Coordinating Local Government Action Through Regional Conservation Planning.**

California local governments confront particular challenges in carrying out their protective role under the police power and state law, but these challenges can be addressed to some degree by regional habitat conservation planning, which provides a mechanism for mediating between and coordinating the activities of federal and local government. Specifically, some mechanism is needed to integrate, or at least to reconcile, local activities carried out under state and local authorities and federal activities carried out under the Commerce Clause. Congress recognized that regional conservation planning provides one tool to do so.

*The Commerce Clause.* In contrast with California local governments, the U.S. "Constitution creates a Federal Government of enumerated powers."<sup>17</sup> The federal government does not have the plenary police power,<sup>18</sup> and instead has customarily founded its assertions of regulatory authority over matters affecting the environment and natural resources on the Commerce Clause—the authority of Congress "[t]o regulate Commerce . . . among the several States . . . ."<sup>19</sup> One expression of the Commerce Clause power is the ESA.<sup>20</sup>

*The "Take" Prohibition.* As you know, under the ESA, species may be listed by the USFWS or the National Marine Fisheries Service ("NMFS") (collectively, the "Services") as endangered or threatened.<sup>21</sup> The ESA makes it unlawful to "take" a species that has been listed and subjected to this "take" prohibition.<sup>22</sup> "Taking" a species means harassing, harming, pursuing, hunting, shooting, wounding, killing, trapping, capturing, or collecting member(s) of the species or attempting to do any of these things.<sup>23</sup> "Harm" in the definition of "take" is defined to include "significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering."<sup>24</sup> In certain circumstances, ground disturbing activities associated with the conversion of land to development purposes can involve a degree of habitat modification that would constitute unlawful "harm." The ESA's take prohibition thereby brings the ESA into the arena of local governmental decision-making regarding land use matters.

*Incidental Take Permits.* While it is unlawful to intentionally "take" a listed species, the ESA allows USFWS or NMFS to issue permits allowing such take if the

<sup>17</sup> United States v. Lopez (1995) 514 U.S. 549, 552.

<sup>18</sup> United States v. Lopez (1995) 514 U.S. 549, 566, citing U.S. Const., Art. I, § 8.

<sup>19</sup> U.S. Const., Art. I, § 8, cl. 3.

<sup>20</sup> 16 U.S.C. § 1531, et seq.

<sup>21</sup> 16 U.S.C. § 1533.

<sup>22</sup> 16 U.S.C. §§ 1538, 1533(d).

<sup>23</sup> 16 U.S.C. § 1532(18).

<sup>24</sup> 50 C.F.R. § 17.3 (regulations of USFWS); 50 C.F.R. § 222.102 (regulations of NMFS) (essential behavior patterns also include spawning, rearing, and migrating).

taking is "incidental to, and not the purpose of, the carrying out of an otherwise lawful activity."<sup>25</sup> An ITP can only be issued if the permit applicant submits a habitat conservation plan ("HCP") to USFWS or NMFS, and the agency then approves it. The HCP has to specify: (1) the impacts that are likely to result from the taking; (2) the steps the applicant will take to minimize and mitigate those impacts; (3) the funding that will be available to implement those steps; (4) the alternatives the applicant considered; (5) the reason why the alternatives are not being utilized; and (6) such other necessary and appropriate measures that the Service may require.<sup>26</sup> The ITP shall be issued if the Service finds that: (1) the taking will be incidental; (2) the applicant will, to the maximum extent practicable, minimize and mitigate the impacts of such taking; (3) the applicant will ensure that adequate funding for the plan will be provided; (4) the taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild; and (5) the mitigation measures required by the Service will be met and the Service has received such other assurances as it may require that the plan will be implemented.<sup>27</sup>

*Regional Conservation Planning.* Cities and counties take on the formidable task of regional conservation planning not simply to avoid liability under the ESA, but to improve land use planning and the land use planning process. ITPs issued in connection with regional HCPs devolve a degree of ESA permitting authority onto local governments. This structure helps to consolidate control over land use decisions in the level of government that has been generally and historically regarded as best suited to that task. Landowners apply, in the first instance, to the local government for authorization to take species under the ESA. Local governments then issue local government permits to landowners in conformance with the HCP and ITP that the Services have earlier approved. Such an approach—once all of the arduous and costly work has been done to put it in place—provides an opportunity to reduce conflicts between, on the one hand, local governments exercising their inherent police power and their duties under state law and, on the other, the federal government exercising power under the Commerce Clause.

A regional HCP can also facilitate multi-party coordination among the Services, local governments seeking to develop land use plans in cooperation with neighboring jurisdictions, and both private and governmental entities seeking to make management decisions regarding land that they own. Where a local government is undertaking a regional conservation planning process, other private and governmental entities may also participate in the plan, helping to make their activities as landowners more consistent with the overall conservation vision offered by the plan.

Programmatic permitting based on regional conservation plans can thereby help to coordinate and reconcile conflicts between restrictions imposed by the federal

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<sup>25</sup> 16 U.S.C. § 1539(a)(1)(B).

<sup>26</sup> 16 U.S.C. § 1539(a)(2)(A).

<sup>27</sup> 16 U.S.C. § 1539(a)(2)(B).

government under the Commerce Clause power and restrictions imposed by one or more local governments under their inherent police power. Ordinarily, the USFWS and NMFS are charged with ensuring on a case-by-case basis that each individual project or activity of each landowner complies with the ESA. In doing so, the Services may render mitigation or enforcement determinations that are not based on a well-thought-out regional vision for species and habitat needs, and may conflict with determinations by local authorities on the same project or activity. Federal agency decisions may follow and conflict with local government decisions, or vice versa. With the opportunity provided by regional conservation plans, species conservation efforts can be integrated more fundamentally and consistently into the fabric of local land use planning.

*Where Regional Conservation Planning Fits Into the Intent of Congress.* In enacting the Endangered Species Act Amendments of 1982, Congress included the incidental take provisions of section 10(a) with at least three discernable purposes in mind. The first two of these purposes, below, plainly encompass regional conservation planning efforts. And this places a special responsibility on the USFWS to consider the effect its regulations may have not only on potential ITP holders when considered as an undifferentiated group, but rather with particular attention to the effects on local government permittees willing to do the hard work of helping to weave together a regional approach to species conservation. Thus, the intent of Congress was:

- To foster "creative partnerships" among governmental agencies, an approach that Congress envisioned to be an alternative mode to the ESA's traditional "regulatory mechanisms."<sup>28</sup>
- To establish a mechanism for conserving ecosystems, a mechanism which goes beyond a focus on listed species and "regulatory mechanisms," and which is a goal of not only the ESA but also other wildlife statutes.<sup>29</sup>

<sup>28</sup> "To the maximum extent possible, the Secretary should utilize this authority under this provision to encourage creative partnerships between the public and private sectors and among governmental agencies in the interest of species and habitat conservation. . . . This provision will measurably reduce conflicts under the Act and will provide the institutional framework to permit cooperation between the public and private sectors in the interest of endangered species and habitat conservation. [¶] The terms of this provision require a unique partnership between the public and private sectors in the interest of species and habitat conservation." Conference Report on the Endangered Species Act Amendments of 1982, H.R. Conf. Rep. No. 97-835, 97th Cong., 2d Sess. at pp. 30-31 (Sept. 17, 1982) (hereinafter "Conf. Report").

<sup>29</sup> "In enacting the Endangered Species Act, Congress recognized that individual species should not be viewed in isolation, but must be viewed in terms of their relationship to the ecosystem of which they form a constituent [sic] element. Although the regulatory mechanisms of the Act focus on species that are formally listed as endangered or threatened, the purposes and policies of the Act are far broader than simply providing for the conservation of individual species or individual members of listed species. This is consistent with the purposes of several other fish and wildlife statutes (e.g., Fish and Wildlife Act of 1956, Fish and Wildlife Coordination Act) which are intended to authorize the Secretary to cooperate with the states and private entities on matters regarding conservation of all fish and wildlife resources of this nation. The conservation plan will implement the broader purposes of all of those statutes and allow unlisted species to be addressed in the plan." Conf. Report at p. 30.



- To establish an exemption that, in appropriate circumstances, will provide landowners with relief from the take prohibition.<sup>30</sup>

### 3. Revocation and Modification Policies, and Other Incentives to Plan.

Uniform, clear and reasonable policies regarding the revocation and modification of ITPs provide an important incentive for development of regional habitat conservation plans. The No Surprises Rule represents a uniform, clear, and reasonable policy, in regard to the question of permit modification. And the Permit Revocation Rule represents a uniform, clear, and reasonable policy, in regard to revocation.

*Buying Plans and Lands in Exchange for Allocation of Unforeseen Risks.* Applicants for regional ITPs bear the substantial costs of preparing and submitting HCPs to the Services. Under an ITP and its associated HCP, the applicants commit to providing land, water and money to minimize and mitigate the impacts of taking listed species. As they undertake these commitments, they desire as much economic and regulatory certainty as possible regarding the overall costs of mitigation that they will bear during the life of the permit. With the added degree of certainty represented by the No Surprises Rule, applicants for regional ITPs are provided an incentive to exceed the minimal requirements established by statute and to make planning assumptions that favor species protection.

For example, because of the No Surprises Rule's limitation against requiring additional mitigation lands or funds beyond those provided for in the plan, an incentive exists for permittees to provide for the needs of species that are presently not listed under the ESA and that otherwise, therefore, receive no protection under the Act. Through the No Surprises rule, therefore, federal agencies not only provide an incentive for the protection for a wider set of species and more habitat than they could otherwise obtain, but they also can achieve this by leveraging the direct efforts of local government.

In order to use a regional HCP to make long-term financial and land-use decisions, local governments and special districts require reasonable certainty that the HCP will not be revised significantly over time. They want the Services to instead agree

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<sup>30</sup> Section 10(a) "adopt[s], with amendments a provision appearing in the House bill to give the Secretary more flexibility in regulating the incidental taking of endangered and threatened species. This provision establishes a procedure whereby those persons whose actions may affect endangered or threatened species may receive permits for the incidental taking of such species, provided the action will not jeopardize the continued existence of the species. This provision addresses the concerns of private landowners who are faced with having otherwise lawful actions not requiring Federal permits prevented by section 9 prohibitions against taking." Conf. Report, at p. 29. Prior to 1982 amendments, the ESA allowed the Secretary to "permit, under such terms and conditions as he may prescribe, any act otherwise prohibited by section 9 of this Act for scientific purposes or to enhance the propagation or survival of the affected species." Section § 10(a) as added by the Endangered Species Act of 1973, Dec. 28, 1973, by P.L. 93-205, §10(a), 87 Stat. 884.

up front on the extent of mitigation commitments, and, to the extent possible, embody those commitments in the plan documents themselves. In other words, in exchange for their own up-front commitments and commitments during the term of the ITP, applicants desire "assurances" that there will be "no surprises."

At root, then, the "no surprises" rule fulfills a need to encourage a significant initial investment in exchange for long-term risk sharing—a tool to encourage non-federal actors to voluntarily plan for, act consistently with, and provide resources for the needs of sensitive species and habitat, beyond what federal authorities can otherwise achieve on their own. The rule accomplishes this by sharing the risk of unforeseen species decline during the duration of an ITP with persons other than the permittee.

At the same time, regional HCPs are not premised on a static view of species needs. Through adaptive management, the pursuit of identified goals and objectives, and the strategic flexibility typically incorporated into the terms of the plans themselves, regional HCPs today provide USFWS and permittees an opportunity to adjust and respond to unforeseen species decline in a strategic coordinated fashion. The No Surprises Rule provides the USFWS and permittee an incentive to build such responsiveness into a plan.<sup>31</sup> Expansive permit revocation criteria, which might stop the operation of an HCP before its program could respond to early signs of species decline, would be at odds with the programmatic nature of regional HCPs.

*Where No Surprises Assurances Fit Into the 1973 and 1982 Enactments.* The Services' decision to establish a formal policy of providing "no surprises" assurances was principally a response to enactment of the Endangered Species Act Amendments of 1982. Thus, the purposes underlying the policy and rule include the following:

- To carry out the intent of Congress that commitments from ITP permittees be accompanied by assurances from the federal government.<sup>32</sup>
- To induce greater conservation of species and habitat on non-federal lands.<sup>33</sup>

<sup>31</sup> See, e.g., the USFWS Five-Point Policy Guidance, 65 Fed. Reg. 35242, 35243 (June 1, 2000) ("The No Surprises assurances encourage contingency planning. Changes in circumstances that can reasonably be anticipated during the implementation of an HCP can be planned for in the HCP. Such HCPs should describe the modifications in the project or activity that will be implemented if these circumstances occur.").

<sup>32</sup> "The Committee intends that the Secretary may utilize this provision to approve conservation plans which provide long-term commitments regarding the conservation of listed as well as unlisted species and long-term assurances to the proponent of the conservation plan that the terms of the plan will be adhered to and that further mitigation requirements will only be imposed in accordance with the terms of the plan." Conf. Report at p. 30.

<sup>33</sup> "[A] driving concern in the development of the policy was the absence of adequate incentives for non-Federal landowners to factor endangered species conservation into their day-to-day land management activities. The Services knew that much of the habitat of listed species is in non-Federal lands and believed that HCPs should play a major role in protecting this habitat. Yet, while thousands of acres of species habitat were disappearing each year, only a handful of HCPs had been sought and approved since 1982.

While primarily an agency implementation response to the policy judgments of the 97th Congress embodied in the Endangered Species Act Amendments of 1982, "no surprises" assurances are also consonant with the policy purposes set forth by the 93rd Congress when enacting the Federal Endangered Species Act of 1973. In that Act, Congress found and declared that:

encouraging the States and other interested parties, through Federal financial assistance and *a system of incentives*, to develop and maintain conservation programs which meet national and international standards is a key to meeting the Nation's international commitments and to better safeguarding, for the benefit of all citizens, the Nation's heritage in fish, wildlife, and plants.<sup>34</sup>

*Where the Permit Revocation Rule Fits Into the System of Incentives.* The question of when USFWS can revoke a permit is inherently related to the question of when USFWS can modify a permit. If USFWS is given broad discretion to revoke a permit, the agency could unfairly coerce permit modifications through threat of revocation.

Uniform, clear and reasonable policies regarding permit revocation that are consistent with policies regarding the modification of ITPs are a necessary condition for development of regional habitat conservation plans. They are both part of "a system of incentives" and the provision of "assurances" in accord with the intent of Congress as expressed in both 1973 and 1982.

#### 4. The Intent of Congress.

The statutory language of ESA section 10(a)(2)(C) establishes a requirement that USFWS or NMFS shall revoke an incidental take permit if the agency finds that "the permittee is not complying with the terms and conditions of the permit." This statutory language is an appropriate revocation standard for incidental take permits with No Surprises assurances. The Conference Report regarding the 1982 amendments to Section

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The No Surprises policy was designed to rechannel this uncontrolled ongoing habitat loss through the regulatory structure of section 10(a)(1)(B) by offering regulatory certainty to non-Federal landowners in exchange for a long-term commitment to species conservation. Given the significant increase in landowner interest in HCPs since the development of the No Surprises policy, the Services believe that the policy has accomplished one of its primary objectives—to act as a catalyst for integrating endangered species conservation into day-to-day management operations on non-Federal lands. The Services also believe that the HCP process, which is a mechanism that reconciles economic development and the conservation of listed species, is good for rare and declining species, and encourages the development of more of these plans. If species are to survive and recover, such plans are necessary because more than half of the species listed have 80 percent of their habitat on non-Federal lands." 63 Fed. Reg. 8859, 8860 (Feb. 23, 1998).

<sup>34</sup> 16 U.S.C. § 1531(a)(5), added Dec. 28, 1973, by P.L. 93-205, § 2(a)(5), 87 Stat. 884 (emphasis added).



Mr. Patrick Leonard  
July 23, 2004  
Page 10

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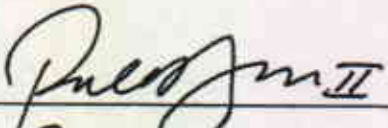
There is no statutory requirement that USFWS promulgate any regulation setting forth criteria for revocation of incidental take permits. As indicated by the statute and its legislative history, Congress had a clear preference that the USFWS state in each permit what it will or has agreed to under that permit. In promulgating a rule regarding permit revocation, it is important that the USFWS should remain consistent with that intent. The rule proposed here by the USFWS, which incorporates by reference an applicable permit-issuance criterion, is consistent with that intent.

\* \* \* \* \*

Thank you for the opportunity to comment on the USFWS proposal to reestablish the Permit Revocation Rule and for your kind attention to the points raised herein.

Sincerely,

Signature:



Name:

PAUL D. JONES II

Title:

GENERAL MANAGER

On Behalf Of:

IRVINE RANCH  
WATER DISTRICT

<sup>35</sup> Conference Report on the Endangered Species Act Amendments of 1982, H.R. Conf. Rep. No. 97-835, 97th Cong., 2d Sess. at p. 30 (Sept. 17, 1982) (emphasis added).

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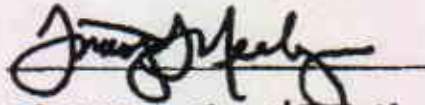
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\* \* \* \* \*

Thank you for the opportunity to comment on the USFWS proposal to reestablish the Permit Revocation Rule and for your kind attention to the points raised herein.

Sincerely,

Signature:



Name:

TIMOTHY S. NEELY

Title:

DIRECTOR, PLANNING & DEVELOPMENT SERVICES

On Behalf Of:

COUNTY OF ORANGE

<sup>35</sup> Conference Report on the Endangered Species Act Amendments of 1982, H.R. Conf. Rep. No. 97-835, 97th Cong., 2d Sess. at p. 30 (Sept. 17, 1982) (emphasis added).

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Thank you for the opportunity to comment on the USFWS proposal to reestablish the Permit Revocation Rule and for your kind attention to the points raised herein.

Sincerely,

Signature:

Name:

Title:

On Behalf Of: SACRAMENTO COUNTY PLANNING DEPT.

<sup>35</sup> Conference Report on the Endangered Species Act Amendments of 1982, H.R. Conf. Rep. No. 97-835, 97th Cong., 2d Sess. at p. 30 (Sept. 17, 1982) (emphasis added).



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\* \* \* \* \*

Thank you for the opportunity to comment on the USFWS proposal to reestablish the Permit Revocation Rule and for your kind attention to the points raised herein.

Sincerely,

Signature: Darrell Ford  
Name: Darrell Ford  
Title: Deputy County Executive  
On Behalf Of: Jon Christofferson, CEO  
County of Placer

<sup>33</sup> Conference Report on the Endangered Species Act Amendments of 1982, H.R. Conf. Rep. No. 97-835, 97th Cong., 2d Sess. at p. 30 (Sept. 17, 1982) (emphasis added).

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July 23, 2004  
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Thank you for the opportunity to comment on the USFWS proposal to reestablish the Permit Revocation Rule and for your kind attention to the points raised herein.

Sincerely,

Signature:

Dennis M. Barry

Name:

Dennis M. Barry, AICP

Title:

Community Development Director

On Behalf Of:

Contra Costa County

<sup>33</sup> Conference Report on the Endangered Species Act Amendments of 1982, H.R. Conf. Rep. No. 97-835, 97th Cong., 2d Sess. at p. 30 (Sept. 17, 1982) (emphasis added).

## Attachment H

### Summary of Assumption for the Take and Cost Analysis

#### Assumption No. 1 – Land Costs

The land costs were based upon an assessment of the 2004 market using the services of Bender-Rosenthal Appraisal Services under contract to Hausrath Economics Group. The cost factors below represent the average per acre costs for fee title acquisitions, considering locations and other characteristics of land that would meet the goals of the PCCP. Conservation easements were assumed for a smaller percentage of the total. The land cost also assumes that parcels that are acquired are in excess of 200 acres in size.

<b>Land Costs</b>	<b>Valley</b>	<b>Foothills</b>
<b>Acquisition costs per acre acquired</b>	<b>\$6,000</b>	<b>\$7,000</b>

#### Assumption No. 2 – Restoration Costs

To determine the cost of a restoration activity a number of individual costs must be assessed in addition to the basic costs of construction. These costs include: planning surveys, pre-construction surveys, construction monitoring, regulatory compliance, plan preparation and engineering, construction oversight, post-construction maintenance. The costs can vary widely from one resource type to the other.

<b>Restoration Costs</b>	<b>Agriculture</b>	<b>Grassland Vernal Pool</b>	<b>Aquatic Wetlands</b>
<b>Restoration costs per acre restored/created</b>	<b>\$8,635</b>	<b>\$41,855</b>	<b>\$99,900</b>

#### Assumption No. 3 – Annual Land Management Costs

The annual land management costs relate to those expenses associated with the ongoing stewardship obligations of the County (or any other management entity that is providing such services to the County). The annual land management costs include a range of costs that vary from site to site depending on the individual management need. Because of the variability in costs, an average was determined based upon the degree to which various types of management activities would be required. The following types of expenses were considered in the analysis: staff and overhead, site improvements and maintenance, contractors, livestock management, vegetation management, waterway maintenance and protection, ecosystem protection, and recreational use management and facilities.

Note – off-setting revenue generating activities have not been evaluated at this time such as livestock and other agricultural production leases.

<b>Annual Land Management Costs</b>	<b>Valley Vernal Pool</b>	<b>Grassland Agriculture</b>	<b>Valley Foothill Riparian</b>
<b>Annual cost/acre/year</b>	<b>\$64</b>	<b>\$71</b>	<b>\$83</b>



**Assumption No. 4 – Annual Monitoring Costs**

It is necessary to monitor the preserves and the restored acres over time to insure that the property is maintained and managed for the purpose of conserving the species and ecosystems. Monitoring also insures that compatible land management activities (e.g., farming or outdoor recreation) do not disrupt the conservation purposes for the acquisition. In addition to the annual/acre cost of monitoring there are one time costs that are anticipated associated with directed research (approximately \$50,000/year and support for a technical advisory group at \$25,000/year.)

**Monitoring Costs**

<b>Annual cost per acre monitored</b>	<b>\$330</b>
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**Assumption No. 5 – Personnel Costs**

Whether it's the County, a joint powers authority or some type of special district, the management of the PCCP will involve significant personnel costs. The following table is a list of the anticipated positions and the assumed cost for salary and benefits. Wetland biologist now included in list.

Executive Director	\$132,000
IT- Database / GIS Management	\$85,800
Budget Analyst	\$72,600
Acquisition Specialist	\$99,000
Grant Specialist/Conservation Planner	\$92,400
Admin – Secretary	\$59,400
Senior Scientist	\$105,600
Preserve/project manager	\$99,000
Technical Staff	\$66,000
Wetlands Biologist	\$85,500
Laborer	\$52,800

**Assumption No. 6 – Overhead and Related Expenses**

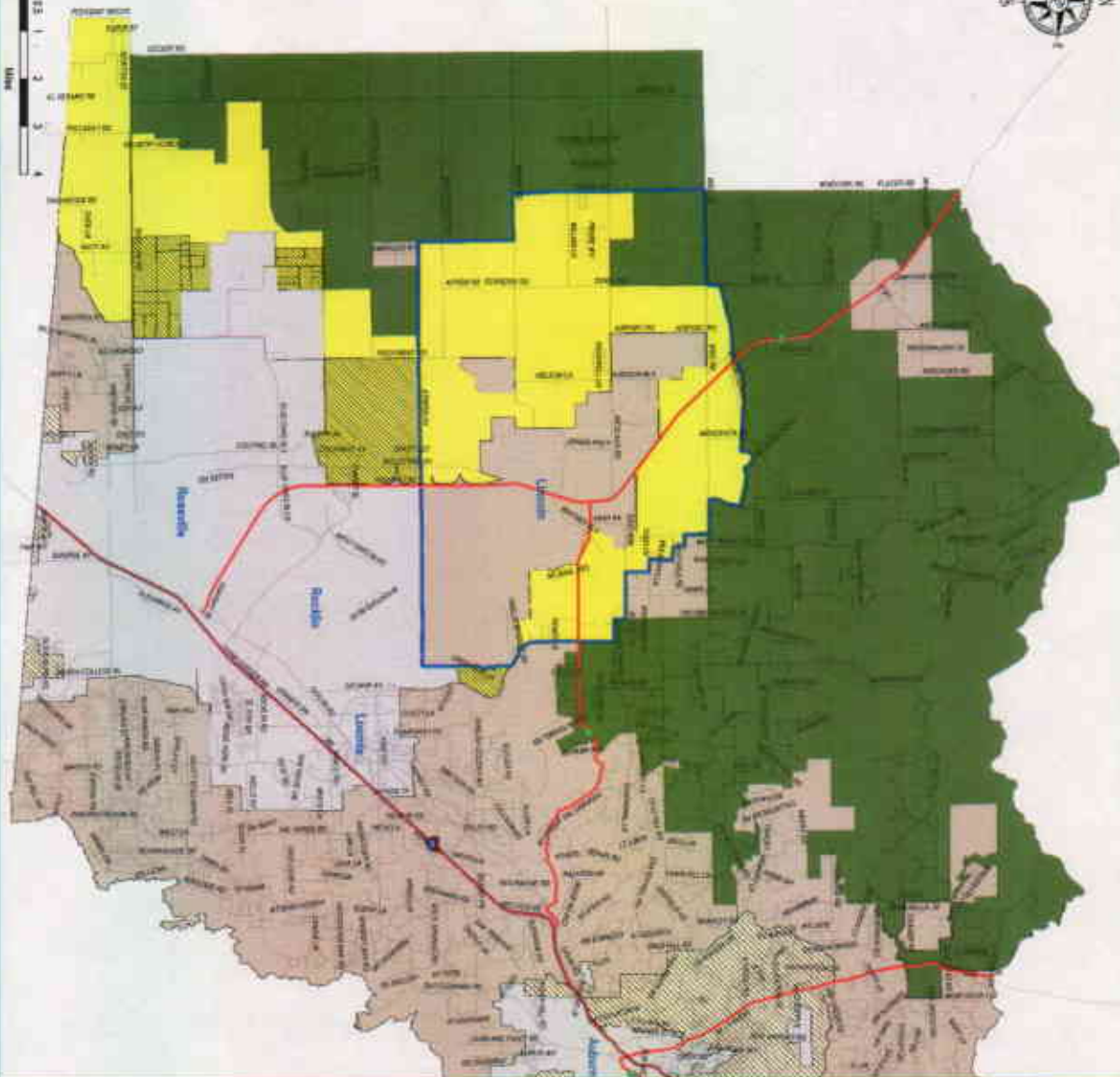
In addition to the personnel costs are those expenses associated with vehicles, office equipment, office space, travel expenses, legal and financial assistance, program insurance, and in-lieu law enforcement and fire-fighting expenses. These costs are included in the summary depicted in Table 4 in the body of the report. Additional detail will be provided in the draft cost report to the Board.

**Land Use Growth Projections**

In addition to the cost assumptions above, Hausrath

<b>Projections for PCCP Economic Analysis</b>	<b>2002</b>	<b>2050</b>	<b>2002-2050</b>
<b>Placer County</b>			
Jobs by Place of Work	152,000	421,000	269,000
Total Population	278,000	616,000	338,000
Household Population	275,000	609,000	334,000
Households	106,000	275,000	169,000

**Phase 1 Area****Jobs by Place of Work****144,400    408,000    263,600****Total Population****250,000    574,000    324,000****Household Population****248,000    569,000    321,000****Households****95,000    257,000    162,000**



**Conservation and Development  
Opportunity Map  
Alternative 6**

### LEGEND



**Ordered by the Pierce County Planning Dept., 605 Duane, 2003.  
Licenses & Permits Division, JanelleC@piercecountywa.gov  
Conservation and Development Opportunity Information@mas-  
net.2.2004**

